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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1913.

No. 176

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY,
Plaintiff in Error,

vs.

THE STATE OF IOWA.

IN ERROR TO THE SUPREME COURT OF THE STATE OF IOWA.

APPELLEE'S BRIEF

GEORGE COSSON, *Attorney General,*
For Appellee.

HENRY E. SAMPSON,
Of Counsel.

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APPELLEE'S BRIEF.

The question presented is: Can the Milwaukee Railway Company, a common carrier of freight and passengers, arbitrarily and for its private advantage, require wholesalers and jobbers in soft coal located at Davenport, Iowa, to unload the coal which comes into Davenport from mines in Illinois in foreign equipment and reload the same in the equipment of the Milwaukee Railway Company as a condition precedent to its moving in intrastate commerce over the Milwaukee Railway from Davenport Iowa, to some point in Iowa on the line of the Milwaukee Railway at which the jobber happens to make sale of said coal?

STATEMENT OF THE CASE.

Defendant in error finds it necessary to restate the case because the statement made by plaintiff in error does not contain all of the elements necessary to a complete understanding of the question involved.

There are a number of shippers at Davenport, Iowa, who are jobbers and wholesalers in soft coal and either have mines located in the state of Illinois or purchase from such mines, and necessarily the original shipment of said coal is interstate and transported to Davenport, Iowa, over the Chicago, Burlington & Quincy Railroad or Chicago, Rock Island & Pacific from points in Illinois to Davenport, Iowa. These interstate shipments of coal in carload lots upon arrival at Davenport are placed on house or local side tracks. When the coal companies make sale or receive orders for said coal at stations on the Milwaukee Railway, the shipper goes to the office of the initial carrier, pays the freight charges and directs the initial carrier to place the car on the interchange track, there being a connecting track at Davenport, Iowa, for the transfer of cars from or to the C., B. & Q., the C., R. I. &. P., and the C., M. & St. P. Ry. Company. The shipper then goes to the Milwaukee agent, asks for a bill of lading to a station on the line of railway of the Milwaukee under the regular Iowa distance tariff and the Milwaukee agent is advised that the car of coal is on the interchange track.

While the coal is to start on a new, purely intrastate journey, it is in the same car in which it was loaded at the mines in the state of Illinois and transported to Davenport in some foreign equipment but on the line of the C., B. & Q. or the C., R. I. & P. Ry. Co.; that for a number of years the Milwaukee road accepted said coal in for-

eign equipment on the interchange track at Davenport without controversy; that some time in 1909 the Milwaukee railway company issued an order refusing to accept written billing and receive cars loaded with coal from the various coal companies operating at Davenport, unless the same was unloaded and reloaded in the Milwaukee equipment. (Record pages 1 to 3; 7 to 10.) See Record page 14 for finding of facts by the board of railroad commissioners of Iowa, and Record pages 27 to 28 for finding of facts by the Supreme Court of Iowa, and the case of *State vs. Chicago, Milwaukee & St. Paul*, 152 Iowa, 317, at 318.

Upon refusal of the Milwaukee to accept cars, complaint was made to the Board of Railroad Commissioners of Iowa, and upon hearing, the Milwaukee being represented by its commerce counsel and counsel for Iowa, it was ordered that the Milwaukee company accept the coal upon the interchange track for local points on the line of the Milwaukee railway in the equipment in which it was then loaded and in which it had been transported from the mines upon proper billing being furnished in accordance with the rules of said company.

It was urged before the commission (first) that the shipment in question was an interstate shipment; (second) that the commission had no authority to make the order in question.

The commission found that they had authority under the statutes of Iowa to make the order and that the shipment from Davenport to a point in Iowa was an intrastate shipment, although it was admitted by all parties that the original shipment was clearly an interstate shipment. (Opinion of the Railroad Commission of Iowa, Record, pages 14 to 26 inclusive.)

The commission found "as a matter of fact, in these days, all freight cars are in effect, pooled. In the actual

operation of railroads generally, no distinction of ownership is made in the handling of cars. Modern conditions, in this respect, have been recognized by the railroads themselves in the establishment of car service bureaus. A slight compensation is charged for the use of cars for accounting and other purposes but this is not inconsistent with the theory that in actual operation, all freight cars are pooled. * * * It is within common knowledge that to unload and reload Iowa coal causes great injury to the coal itself, as well as the burden of expense in the transfer. If such a right existed and was exercised by the railroads of Iowa, the injury to the coal interests of this state would be incalculable. * * * It would be a monstrous doctrine and an incalculable burden upon the shippers of this state if it were for a moment conceded that any railroad operating in Iowa could require cars to be unloaded and reloaded into its own equipment before it would transport them. * * * We believe that the statute is a complete answer to the question and that it is founded upon the inherent necessities of the shipping public." (Record, page 16.)

Upon appeal to the Supreme Court of the State of Iowa the Milwaukee Railway Company contended that the shipment in question was an interstate shipment and that the statutes did not authorize the commission to make the orders. The supreme court of the state held adversely to the contention of the company on both of the above propositions and held that "it certainly would be a great inconvenience to the public to be compelled to unload and reload in the defendant's equipment every car of coal that the dealer might wish to send out over the defendant's road simply because the coal was received by him in cars belonging to a private person or to another road." (Record, pages 27 to 31, at page 30; *State vs. Chicago, Milwaukee Railway Co.*, 152 Iowa, 317, at 321.)

ARGUMENT.

I.

Appellant in Division I of the argument urges that the proposed shipment from Davenport to destination to a point in Iowa on the Milwaukee railway is an intrastate shipment, and cites the case of *Gulf Colorado & Santa Fe Ry. Co. vs. Texas*, 204 U. S., 403, 412.

The state not only admits the proposition but urges the soundness of the same, and in the court below and before the railway commission, the main contention of the railway company was that the shipment in question was not a state but interstate shipment.

State vs. Chicago, Milwaukee & St. Paul Ry. Co.,
152 Iowa, 317, at 319;
Record, 9-14; 21-30.

II.

In Division II, it is urged that at common law a railway company was not bound to transport property in the equipment designated by the shipper.

The soundness of this proposition may readily be admitted, but in view of the point raised in Division III, it also becomes entirely immaterial.

It is urged in Division III of the argument (page 22) that there is no statute in the state of Iowa which compels a railway company to receive a shipment in a foreign car.

III.

Did the Board of Railroad Commissioners of Iowa have authority under the statutes of Iowa to make the order requiring the Milwaukee Railway Company to re-

ceive coal on the interchange track at Davenport, Iowa, in the equipment in which the coal was then loaded, and to prohibit the Milwaukee Railway Company from requiring the coal companies at Davenport to unload the coal and reload the same in Milwaukee equipment as a condition precedent to its moving in intrastate commerce over the lines of the Milwaukee Railroad Company in Iowa?

It becomes unnecessary to originally argue this proposition in view of the finding and the decision of the Supreme Court of Iowa.

The question was raised both before the Board of Railroad Commissioners of Iowa and the Iowa Supreme Court. The commission found as a matter of fact that it had full authority under the statute to make the order in question. (See Record pages 15 and 16, par. 28-29.)

The Supreme Court of Iowa found it unnecessary to determine whether complete authority was granted in section 2116 of the Code of Iowa in view of section 2112 of the Code which provides that the Board of Railroad Commissioners of Iowa "shall have general supervision of all railroads in this state operated by steam;" and section 2113 of the Code which provides that when in the judgment of the board changes in the mode of operating the road or conducting its business "is reasonable and expedient in order to promote * * * the convenience and accommodation of the public, the board shall serve notice upon such corporation of the changes which it finds to be proper" and held in effect that the order in question was reasonable and that it was in harmony with section 2113 of the Code, because "it certainly would be a great inconvenience to the public to be compelled to unload and reload in the defendant's equipment every car of coal that the dealer might wish to send out over the defendant's road simply because the coal was received by him in cars belonging to a private person or to another road."

And in further support of its position the court directed attention to section 2153, Supplement to the Code of Iowa, 1907, which provides:

> "Every owner or consignor of freight to be transported by railway from any point within this state to any other point within this state shall have the right to require that the same shall be transported over two or more connecting lines of railway, to be transferred at the connecting point or points without change of car or cars, if in carload lots, * * * and it shall be the duty, upon request of any such owner or consignor of freight, * * * to transport the freight without change of car or cars, if the shipment be in carload lot or lots."

State vs. Chicago, Milwaukee Ry. Co., 152 Ia,, 317.

It is so elementary that this court accepts as conclusive the interpretation placed upon a state statute by its highest judicial tribunal that citation is unnecessary, but see the case of *Louisville & Nashville vs. Kentucky*, 183 U. S., 503, where the court said: "This court must accept the meaning of the state enactments to be that found in them by the state courts." (Page 508.)

IV. AND V.

Does the order of the Board of Railroad Commissioners of Iowa deny plaintiff due process in that (a) it amounts to taking plaintiff's property; or (b) denies him the right of the liberty of contract?

In Division IV of appellant's argument it is urged that the order in question deprives the railway company of its right to contract, and hence offends against the Fourteenth Amendment.

In Division V it is urged that the order of the board of railroad commissioners amounts to a taking of the railway company's property in contravention of the Fourteenth Amendment.

Both Divisions IV and V of appellant's argument will be treated together because in each instance appellant

relies upon the due process clause in the Fourteenth Amendment.

Under this branch of the argument no aid can be furnished to the court by a long list of excerpts composed of generalities. The facts in this case require treatment at close range.

It is well known that a reasonable regulation of public service corporations or persons and a reasonable limitation of the right to contract, if made under the police power in the interests of the public health, the public safety, the public morals, or the public welfare, convenience, necessity or prosperity, is valid.

Grand Trunk Ry. Co. vs. Mich. Ry. Com., 231 U. S., 457;
Wisconsin, Minnesota & Pacific R. R. Co. vs. Jacobson, 179 U. S., 287;
Atlantic Coast Line vs. N. C. Com., 206 U. S., 1;
Holden vs. Hardy, 169 U. S., 366;
Slaughter House Cases, 83 U. S., 36;
C., M. & St. P. Ry. Co. vs. Solan, 169 U. S., 133;
Carroll vs. Greenwich, 199 U. S., 401;
C., B. & Q. Ry. Co. vs. McGuire, 219 U. S., 549;
Engel vs. O'Malley, 219 U. S., 128;
Western Union Telegraph Co. vs. Commercial Milling Company, 218 U. S., 406,

wherein it is held that it was rather late in the day to make the objection.

Noble State Bank vs. Haskell, 219 U. S., 104;
Assaria State Bank vs. Dolley, 219 U. S., 121;
Mobile, Jackson R. R. Co. vs. Mississippi, 210 U. S., 187;
C., R. I. & P. Ry. Co. vs. Zernecke, 183 U. S., 582.

And that on the other hand an arbitrary, unreasonable taking of property or limiting of the right to contract is invalid especially where the statute bears no relation to

correcting some public evil or promoting the health, safety, morals, welfare or prosperity of a state or community.

Lake Shore & Mich. Southern vs. Smith, 173 U. S., 687;
Central Stock Yards vs. L. & M., 192 U. S., 568;
Missouri Pacific Ry. vs. Nebraska, 164 U. S., 403;
McNeil vs. Southern Railway Co., 202 U. S., 543, 561;
Allgeyer vs. Louisiana 165 U. S., 579;
Louisville & R. R. Co. vs. Stock Yards Co., 212 U. S., 132.

The appellee contends that this case comes squarely under the doctrine of *Wisconsin vs. Jacobson*, 179 U. S., 287, and kindred cases and is not controlled by the pronouncement in *Central Stock Yards vs. Louisville*, 192 U. S., 568.

In the former case it appears by the statutes of Wisconsin, as set out in the marginal notes on page 288, that all common carriers at points of connection and intersection, where it was practicable in view of the grade, should be required to construct and maintain track connections for the purpose of the interchange of cars between their respective lines. It was clearly shown that if this could be required one of the transportation companies in question would receive a much shorter haul on certain kinds of freight. It was recognized in the opinion that at common law courts would be without power to order such connections as was made in the court below; that legislative authority was necessary, but that "if power were granted by the legislature and it amounted in the particular case to a fair, reasonable and appropriate regulation of the business of the corporation, when considered with regard to the interests both of the company and the public the legislation would be valid and would furnish

therefore ample authority for the courts to enforce it," and the public benefit in that case was held sufficient to justify the power and the authority granted under the statutes of the state of Wisconsin, and this, notwithstanding that it would be necessary for the railway companies in question to exercise the right of eminent domain and condemn additional land and to jointly pay the cost of the construction and maintenance of the interchange track in question, and notwithstanding that one of the lines in question would not only be required to receive freight in carload lots in foreign equipment, but in addition thereto, receive a much shorter haul than it would else receive.

The right of governmental supervision of railway companies for the purpose of serving the public good and convenience was also clearly set forth. It is admitted by plaintiff in error that the refusal on the part of the Milwaukee Railway Company to accept the cars is due to a belief that it will be of a private advantage to the railway company. The appellant states: "It is doubtless fair and reasonably accurate to say that both the shippers and the carrier were actuated by self-interest." (Appellant's argument, page 17.)

The admission of appellant and the objections to obeying the order of the railway commission is clearly answered by this court in the case of *Wisconsin vs. Jacobson*, 179 U. S., 287. On page 300, Mr. Justice Peckham, speaking for the court, said:

> Can it refuse to obey the commands of the legislature in such case upon the sole ground that it may thereby somewhat lessen the earnings of its road? Or can it refuse to make such connections because, if they were made, wood could be brought from the forests of northern Minnesota to all towns along its line west of Hanley Falls, and there sold for a less price than can now be done, when without such connection being made the demand for the wood along the line of the road of the plaintiff in error is nev-

> ertheless constantly decreasing owing to its quality and price? We think these questions should receive a negative answer. The interests of the public should not be thus wholly, and it seems to us, unjustifiably ignored.

And the court added:

> "Taking the facts which we have already enumerated into consideration, we think there is no justification furnished for the argument that the judgment, if enforced, would violate any of the constitutional rights of the plaintiff in error * * * In this case the provision is a manifestly reasonable one, tending directly to the accommodation of the public, and in a manner not substantially or unreasonably detrimental to the ultimate interests of the corporation itself."

Let it be remembered that in the case at bar while the several shipments of coal in carload lots start on the new intrastate journey from Davenport, Iowa, a previous interstate shipment has just been concluded; that the coal in question is bituminous or soft coal; that it has been transported in the identical car in which it is offered to the Milwaukee Railway Company from some point in Illinois over the C., B. & Q. or C., R. I. & P. Ry.

Let it be remembered that this coal could not be unloaded at Davenport and reloaded without greatly depreciating the value and quality of the coal. A considerable part of the coal would have to be screened in order to again put it in the No. 1 grade; that a reasonable charge for unloading and reloading a car of coal would be from fifteen to thirty-five cents per ton, depending upon the facilities for unloading and reloading.

Let it be remembered that there is no machinery by which coal could be unloaded from the regular coal car in general use and reloaded into another car.

Let it be further remembered that about twenty-five per cent of lump coal is hauled in box or grain cars and not regular coal cars.

Let it be further remembered that the length of time consumed in the unloading and reloading of this coal would be sufficient for the car to be transported locally between two points in the state of Iowa.

In view of these facts can it be said that this case is not controlled by the pronouncement made in the case of *Wisconsin vs. Jacobson*, 179 U. S., page 300?

Counsel say, page 21 of the brief: "Of course, it would not have damaged a commodity like coal to transfer it from one car into another."

Evidently counsel is not familiar with the characteristics of bituminous or soft coal, else he would make no such statement. Possibly he has lived most of his time in an anthracite region. The Board of Railway Commissioners of Iowa found that it would injure the coal to be transferred. On page 16 of the Record, the commission say that it is within common knowledge that to unload and reload coal causes great injury to the coal itself as well as the burden of the expense in the transfer, and our supreme court said: "It certainly would be a great inconvenience to the public to be compelled to unload and reload in the defendant's equipment every car of coal that the dealer might wish to send out over the defendant's road."

Counsel for appellant says that "the fact that the shipper did not bill the coal from the Illinois mines to its ultimate destination must be accounted for by some objection or objections in the minds of the shippers" and that "whether this was due wholly to a desire to get a lower rate than the interstate rate, *or wholly to the desire to have the carload shipment free to re-consign at Davenport to whichever point of final destination a purchaser*

might be found at, or whether it was due in part to each of these reasons, is not a matter of vital importance."

Counsel again fall in error because of a lack of knowledge of the actual conditions. The record shows that there are a number of jobbers and wholesalers dealing in coal at Davenport, Iowa, who receive coal from points in Illinois and re-consign the same at Davenport.

To a jobber who purchases his coal from Illinois mines and re-ships it from Davenport, Iowa, to points in Iowa in competition with the Iowa coal mines, some of which are located on the lines of the Milwaukee Railway Company, it is a matter of tremendous importance whether he shall be required to pay more per ton for having his coal unloaded and reloaded than the actual profit per ton he makes in the jobbing business, and in addition thereto have the coal depreciate by reason of its being unloaded by hand from the car either into a vehicle, a platform or even thrown at considerable distance from one car to another, depending upon the circumstances in the case; and it is of tremendous importance to him whether he shall be able to have coal coming into Davenport in carload lots from day to day that he can immediately re-consign to any point in Iowa on the line of the Milwaukee railway in response to a telegraphic or telephone order for coal where there is a desire for prompt delivery. The retail dealer in the small town does not carry great quantities of coal on hand but depends upon the jobber, wholesaler or operator filling his orders promptly.

I use the words "tremendous importance" advisedly and conservatively for the reason that the difference of unloading and reloading coal, at times waiting for cars during car shortages, with the depreciation of the coal, is sufficient to determine whether the jobber may do business or whether he may not do business. Unless the business will afford a jobber at least a small profit, he must discontinue the same, and the order of the Milwaukee

Railway Company will necessarily greatly limit the business transacted at Davenport, and make it impossible for a number of the firms now engaged in the jobbing coal business to continue therein.

The record may not be complete as to some of these facts, but they are offered in reply to the gratuitous information offered by counsel for appellant, and we trust that it is not improper in replying to counsel's statement as to why coal is not transported directly from the initial points in Illinois to the point of destination in Iowa, to suggest that there is now no joint tariff over the lines of the C., B. & Q. and the C., R. I. & P. Ry. Companies, from mining stations in Illinois to local stations in Iowa over the Milwaukee Railway Company*

If the state is misinformed as to this point, we will be glad to have counsel give the court a list of the joint tariffs, but even if the railway companies should hereafter promulgate joint tariffs from mining stations in Illinois to points in Iowa over the line of the Milwaukee Railway Company, it would still only be a partial relief because only a part of the coal is sold at the time the car starts on its initial shipment in Illinois. Orders are filled from day to day by these jobbers and wholesalers at Davenport from coal either on track at Davenport or enroute between the mines in Illinois and Davenport, Iowa.

We respectfully urge that the case at bar is not only governed by the doctrine announced in the case of *Wisconsin vs. Jacobson*, but that in the late case of *Grand Trunk Ry. Co. vs. Mich. Ry. Com.*, 231 U. S., 457, and also the case of *Atlantic Coast Line Ry. Company vs. North Carolina Commission*, 206 U. S., 1, wherein the case of *Wisconsin vs. Jacobson* is cited and followed, a complete answer is made to every objection urged by plaintiff in error, and see *Missouri Railway Company vs. Mackey*, 127 U. S., 205.

These cases, in addition to those previously cited, make it clear that the order of the railroad commissioners of

*except a joint tariff effective October 9, 1913, from Peoria, Ill., via C., R. I. & P. Ry. to DePue, Ill.

Supplement Nos. 17 & 18 to C. M. & St. P. Ry. Tariff, No. 10800-A, I. C. C., No. B-2506.

Iowa does not deprive plaintiff in error of property without due process, and these cases also make it clear that plaintiff is not denied due process by reason of limiting its right to contract.

In the case of *Western Union Telegraph Company vs. Commercial Milling Company,* 218 U. S., 406, this court, on page 421, said:

> The basis of this contention (plaintiffs in error) is the liberty of the telegraph company to make contracts. It is rather late in the day to make that contention. The regulation of public service corporations is too well established both as to power and the extent of the power, to call for any discussion.

Almost the precise question was passed upon by the Supreme Court of Iowa in the case of *B., C. R. & N. Ry. Co. vs. Dey,* 82 Iowa, 312, decided in January, 1891. The court, at page 335, said:

> The course of business of railroad companies, originating in the wants and demands of commerce, requires the cars of one company to be delivered to another for transportation. It is presumed that rules relating to compensation for the cars transported are settled by agreement, or under rules recognized and prevailing in the business of transportation by railroads. At all events, the law provides rules under which this matter of compensation may be settled. It is competent for the railroad commissioners, if it be necessary, to impose rules touching this matter, in order to aid the railroad companies to perform the duty imposed by the statute to provide for joint rates, or to require or enforce the performance of that duty. The fact that the transfer of cars from one company to another, for the transportation of property over more than one railroad, without breaking bulk, has been practiced so long as to be recognized as of the course of business, of which we will take judicial notice (*Peoria & P. U. Ry. Co. vs. Railroad,* 109 Ill., 135), is a complete answer to the complaints made in the objections under consideration. Surely a course of business so long

> pursued, and so extensively prevailing, and demanded by the commerce of this country, cannot, when recognized and required by statute, become so objectionable in principle, so oppressive in operation, as to require the statute to be declared unconstitutional.

And expressly found that it did not offend against the due process clause of the Fourteenth Amendment, and this case has been frequently cited by the courts of the country, including this court. It was cited with approval in the case of *Minneapolis & St. Louis Ry. Co. vs. Minnesota*, 186 U. S., 257. In this case the court said: "We are bound to recognize the fact that modern commerce is largely carried on over railways owned and operated by different companies," and the court also cited the case of *Wisconsin vs. Jacobson*.

The case at bar does not present facts similar to those in the case of *Central Stock Yards vs. Louisville Ry. Co.*, 192 U. S., 568. This is not a case where one railway company hauls the cars from the point of origin to the station of destination and then is asked to turn over loaded cars to some other transportation company at the point of destination at some connecting track in close proximity to the point of delivery.

Undoubtedly this court was correct in saying that the statutes of Kentucky "cannot be intended to sanction the snatching of the freight from the transportation company at the moment and for the purpose of delivery." Surely that is different than requiring a railway company to unload and reload soft coal and refuse to receive the same in the equipment in which the coal was loaded at the mines in Illinois and transported to Davenport, Iowa, and placed on an interchange track for a future, local shipment.

We have amplified on this point beyond the necessities of the case. We feel that after a statement of the facts

nothing more would have been required except to direct attention to the case of *Wisconsin vs. Jacobson* and *Atlantic Coast Line vs. N. C. Commission, supra,* as more than ample authority for the order of the Board of Railroad Commissioners of Iowa, especially in view of the holding of this court in the late case of *Grand Trunk Ry. vs. Mich. Ry. Com.*, 231 U. S., 457.

It is urged by plaintiff in error that the order of the Board of Railway Commissioners of Iowa will also injure the C., B. & Q. and the C., R. I. & P. railway companies.

It has become elementary that plaintiff in error can complain only of the injury which he himself may sustain and may not strike down a statute as violative of the Federal Constitution because of its possible injury to someone else.

> *Standard Stock Food Company vs. Wright*, 225 U. S., 540, at 550.

As a matter of fact, however, the C., R. I. & P. and the C., B. & Q. railway companies are not complaining of this order, and the solicitude of plaintiff in error in behalf of these companies is wholly unwarranted.

VI.

Under Division VII appellant claims that the order of the commission in question offends against the Fourteenth Amendment in that the railway company is denied the equal protection of the laws.

We do not feel justified in discussing this proposition in view of the holding of this court in the cases of *Wisconsin vs. Jacobson*, 179 U. S., 287, and *Atlantic Coast Line vs. N. C. Corporation Commission*, 206 U. S., 1, with cases cited in a marginal note on page 19.

For more recent decisions on this point see the cases of

> *Grand Trunk Ry. Co. vs. Mich. R. R. Com.* 231 U. S., 457;

Western Union Telegraph Co. vs. Commercial Milling Company, 218 U. S., 406;
Griffith vs. State of Kentucky, 218 U. S., 563;
Kentucky Union Company vs. Kentucky, 219 U. S., 140;
German Alliance Insurance Co. vs. Hale, 219 U. S., 307;
District of Columbia vs. Brooke, 214 U. S., 138;
Brown-Forman Co. vs. Kentucky, 217 U. S., 563;
Field vs. Barber Asphalt Co., 194 U. S., 618;
McLean vs. Arkansas, 211 U. S., 546;
Williams vs. State of Arkansas, 217 U. S., 79;
Carroll vs. Greenwich Insurance Co., 199 U. S., 401;
S. W. Oil Company vs. Texas, 217 U. S., 114;
Mo., K. & T. Ry. Co. vs. May, 194 U. S., 267.

VII.

The order of the Board of Railway Commissioners of Iowa does not offend against the commerce clause of the Federal Constitution because it is not a burden on interstate commerce, but rather an aid to interstate commerce.

In view of the decisions previously cited and the numerous decisions of the court sustaining state statutes which affect interstate commerce but do not place any burden thereon little need be said. The order of the railway commission of Iowa is in aid of interstate commerce because it tends to a more prompt releasing of cars. Time is lost in the unnecessary unloading and reloading of cars at Davenport, Iowa. The time consumed in the unloading and reloading of the cars in question would often be equal to that required in transporting the car over the entire local shipment. In any event the regulation being reasonable, it is clearly within the police power of the state.

If the regulation is reasonable and congress has remained silent upon the specific matter, it is neither a bur-

den to interstate commerce nor a conflict with the acts of congress to regulate interstate commerce.

Grand Trunk Ry. vs. Mich. Ry. Commission, 231 U. S., 457;
Savage vs. Jones, 225 U. S., 501;
Standard Stock Food Company vs. Wright, 225 U. S., 540;
Reid vs. Colorado, 187 U. S., 137, 147;
Northern Pacific Ry. Co. vs. Washington, 222 U. S., 370;
C. C., etc. vs. Ill., 177 U. S., 514;
Minnesota Rate Cases, 230 U. S., 352; and see
McLean vs. Denver & Rio Grande Railway Co., 203 U. S., 38, 55;
Smith vs. Alabama, 124 U. S., 465;
Nashville Ry. Co. vs. Alabama, 128 U. S., 96;
N. Y. R. R. Co. vs. New York, 155 U. S., 628;
Hennington vs. Georgia, 163 U. S., 299.

The decision of the Supreme Court of Iowa should be affirmed.

Respectfully submitted,

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